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April 18,2007

VIA ELECTRONIC FILING

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Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Communication - CS Docket No. 97-80;
and RCN Corporation Request for Waiver, CSR-7113-2

Dear Ms. Dortch:

Boston
Hartford
London
Los Angeles
New York
Orange County
San Francisco
Silicon Valley
Tokyo
Walnut Creek
Washington

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, and on behalf of RCN Telecom Services, Inc. ("RCN"), I am providing for the record a copy of a letter from Mr. Richard Ramlall, RCN's Senior Vice President, Strategic & External Affairs, to Mr. David B. Yoffie. This letter responds to the letter submitted by Mr. Yoffie in Docket 97-80 on April 11,2007, in which Mr. Yoffie advised Chairman Martin that RCN had been unable to provide him with CableCARDS for his new TiVo Series 3 HD DVR and took the position that this supply problem warrants denial of RCN's Petition for Waiver filed on November 17, 2006, in the above-referenced proceedings.

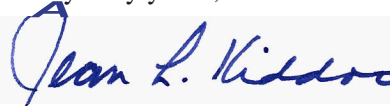
RCN handled Mr. Yoffie's complaint as it would any other complaint and, because it had been escalated to RCN management, it was referred to RCN's Boston Area General Manager for a response. As stated in the attached correspondence, the problem was due to a shortage of CableCARDS in RCN's inventory as of Mr. Yoffie's March 26-27 request, and RCN's General Manager was pleased to have been able to resolve the issue **as** a result of the fact that RCN had had a delivery of new CableCARDS on April 9,2007, and is now able to provide them to Mr. Yoffie.

Because Mr. Yoffie's letter was filed in the record and took the position that the Commission should deny RCN's waiver request based on an unrelated supply problem, RCN also provided the attached written response to his letter. While RCN would not ordinarily place correspondence to a customer into the Commission's public record, RCN believes that the record needs to reflect the facts surrounding the matters set forth in Mr. Yoffie's letter and RCN's response to his claim that those facts warrant denial of a waiver.

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
April 18, 2007
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Should any additional information be required with respect to this submission,
please do not hesitate to contact me.

Very truly yours,

A handwritten signature in blue ink, reading "Jean L. Kiddoo", is displayed on a light gray rectangular background.

Jean L. Kiddoo

Attachment

cc: Monica Desai
Andrew Long
Brendan Murray



April 16, 2007

Mr. David B. Yoffie
Harvard Business School
Morgan Hall 215
Soldiers Field
Boston, MA 02163

Richard Ramlall
Senior V.P., Strategic & External Affairs

Assistant: Teri Wissinger
(703) 434-8408
fox (703) 434-8409
Richard.Ramlall@rcn.net

Re: FCC Docket No. 97-80

Dear Mr. Yoffie:

We are in receipt of your letter to FCC Chairman Kevin Martin regarding your recent experience in trying to obtain a CableCARD for use with your new TiVo HD DVR on the RCN network in Newton, Massachusetts. I understand that you are traveling this week and that our Boston office has arranged to deliver two Motorola Multi-Stream Bi-Directional CableCARDS (M-Cards) upon your return, but I wanted to follow up on your telephone call with our Boston Area General Manager to once again offer our apologies for any inconvenience you may have experienced and to offer you a bit more of an explanation of why RCN was unable to provide you with the requested card when you called in late March to request one.

I want to assure you that the problem you experienced resulted from a delivery shortage and not from any unwillingness by RCN to provide our customers with CableCARDS for use with equipment that they purchase at retail outlets. Unfortunately, you and other RCN customers who have requested CableCARDS recently have inadvertently been affected by a supply shortage resulting from the changeover by Motorola from the single stream CableCARD (S-Card) that we have traditionally deployed, to the new bi-directional M-Card that it has developed in anticipation of the July 1, 2007 integration ban and the consequent deployment of a new line of set top box equipment. Unfortunately, after the S-Card had been discontinued there was a delay in Motorola's production and delivery of the new M-Cards, causing our existing inventory of S-Cards to be seriously depleted. The problem was exacerbated by a spike in demand for CableCARDS as a result of the release by TiVo of a new DVR that requires two CableCARDS for every unit. While we tried our best to locate additional S-Cards for use in the interim, we simply did not have enough cards for all of the customers who were requesting them.

Our first shipment of M-Cards finally arrived on April 9, and we were able to ameliorate to some extent the backlog of orders. We have since received another shipment, which has also helped mitigate the shortage. We expect another shipment later in the week, and have placed another large order with Motorola in light of the heavier than expected demand. We therefore hope that the customer waiting times will be eliminated going forward.

Given the shortage of CableCARDS, our customer service representatives were instructed to offer customers a DVR for use during the interim period pending delivery. I regret that you

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interpreted this offer as a purposeful effort to force you to use RCN-supplied equipment and not your new TiVo DVR. It was meant to be an offer to mitigate any inconvenience to customers as a result of the delay, and I am sorry if it seemed to you to be based on some other ulterior motive on RCN's part.

Although I am very sympathetic to the frustration you experienced as a result of the delay, I must respectfully take issue with your statement to Chairman Martin that RCN should not be entitled to a Section 629 waiver as a result of this unfortunate occurrence. As you probably were not aware, KCN has only asked the FCC for a very limited waiver to permit it to continue to deploy a low-cost set top box (the Motorola DCT-700). We have not asked the Commission for a waiver for any higher end boxes with DVR or other advanced capabilities. There are no low-cost, limited-feature set top boxes similar to the DCT-700 available on the retail market, and we have therefore requested the waiver for this single box because without it the cost of a basic set top box will nearly triple for those of our subscribers who do not need or cannot afford a more expensive, fully-featured DVR like your TiVo. This would have a devastating effect on a number of our key consumer initiatives such as deployment of *a la carte* tiers of programming like our low-cost MiVision Hispanic packages, and on our ability to free up the capacity necessary to provide you with more HD programs. As to the former, our MiVision customers tend to be quite cost sensitive and having to buy an expensive set top box would completely change the economics of the *a la carte* service for them. And as to the second, we also need to convince our other subscribers of the value proposition of having digital set top boxes at all of their televisions so that we can decrease our analog channels in order to free up additional digital capacity for those of our customers who, like you, have already moved to the HD and digital world and who want more HD programming. Tripling the cost of each of those boxes will make that effort much harder and will mean that we cannot offer you as many HD programs as soon as we would like.

Again, however, I apologize for any inconvenience you may have experienced as a result of the delay in your receipt of a CableCARD for your new TiVo Series 3 DVR. At RCN we know that our customers always have another cable operator available to them, and even though the circumstances here were largely beyond our control, we always try to provide superlative service and therefore deeply regret any customer dissatisfaction.

Very truly yours,



Richard Ramlall
Senior Vice President,
Strategic and External Affairs



H A R V A R D | B U S I N E S S | S C H O O L

DAVID B. YOFFIE |

MAX AND DORIS STARR PROFESSOR OF INTERNATIONAL BUSINESS ADMINISTRATION
SENIOR ASSOCIATE DEAN, CHAIR, EXECUTIVE EDUCATION

April 11, 2007

Chairman Kevin Martin
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: CS Docket 97-80

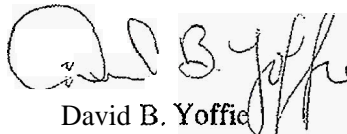
Dear ~~Chairman~~ Martin:

I live in Newton, Massachusetts. I am a subscriber of cable television services from RCN Communications. I recently purchased a TiVo Series3 HD DVR. On or about March 26, 2007 and again on March 27, 2007 I contacted RCN to obtain CableCARDS for my TiVo DVR. Each time, RCN has refused to provide me with any CableCARDS claiming that RCN has no CableCARDS and cannot provide me with any estimate as to when (or if) CableCARDS may be available to me in the future.

Rather than provide me with CableCARDS as I requested, RCN tried to convince me to use RCN's own DVR instead of using CableCARDS for the TiVo Series3 DVR.

I understand RCN is seeking a waiver from the FCC relating to its own use of CableCARDS and I fail to see how RCN could be entitled to such a waiver when it disregards its obligation to provide CableCARDS to consumers upon request as required by the FCC.

Sincerely,



David B. Yoffie